IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 24TH AUGUST, 2007 / 2ND BHADRA, 1929

WP(C).No. 17232 of 2007(B)

PETITIONERS:

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1. MANGATTUKANDI KADEESABIL,
   W/O.LATE P.N.MAMMED KOYA, P N M ENTERPRISES,
   AZHEEKAL ROAD, PALLIKANDI, KOZHIKODE 3.

2. P.N.ASHRAF, S/O.P.N.MAMMED KOYA,
   P N M ENTERPRISES, AZHEEKAL ROAD, PALLIKANDI,
   KOZHIKODE - 3.

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS:

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1. THE VILLAGE OFFICER, NAGARAM,
   KOZHIKODE.

2. THE TAHSILDAR, KOZHIKODE.

3. THE DISTRICT COLLECTOR, KOZHIKODE.

4. CORPORATION OF KOZHIKODE REPRESENTED
   BY ITS SECRETARY.

5. STATE OF KERALA REPRESENTED BY THE
   SECRETARY, DEPARTMENT OF REVENUE, SECRETARIAT,
   THIRUVANANTHAPURAM.

R1 TO R3 & R5 BY GOVT. PLEADER SRI.I.V.PRAMOD.

R4 BY ADV. SRI.P.V.KUNHIKRISHNAN,SC,KOZHIKODE CORP
BY STANDING COUNSEL SRI.C.M.SURESH BABU.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 24/08/2007, ALONG WITH WP(C) NO.16645 OF 2007 AND CONNECT. CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX (WP(C) NO.17232 OF 2007)

PETITIONER'S EXHIBITS:

Ext.P1: Copy of the notice issued by R2 dtd.30.5.07.

Ext.P2: Copy of the Reply dtd.2.6.07.

Ext.P3: Copy of the document No.929/81.

Ext.P4: Copy of the site plan of the property.

Ext.P5: Copy of the licence issued by R4.

Ext.P6: Copy of the Sales Tax Registration Certificate.

Ext.P7: Copy of the Receipt for having remitted Building Tax.

Ext.P8: Copy of the Receipt for having remitted licence fee.

Ext.P9: Copy of the statement showing Sales Tax paid by the 2nd petitioner for the year 2006-07.

-True Copy-

P.A.to Judge.

S. SIRI JAGAN, J.

WP(C) Nos.17232,16645, 16671,
16680, 16685,16756 & 16818 OF 2007

Dated this the 24th day of August, 2007

J U D G M E N T

The petitioners in these writ petitions are persons against whom notices have been issued directing them to vacate the properties mentioned therein on the ground that they are in unauthorised occupation of Government land. The contention of the petitioners is that notices have been issued in violation of principles of natural justice and the provisions of the Kerala Land Conservancy Act and Rules.

2. I have heard the learned Government Pleader also. Learned Government Pleader could not satisfy me that the notices were preceded by a show cause notice or hearing. No reasons are also mentioned in the impugned notices for invoking the emergency provisions under the Kerala Land Acquisition Act. Under such circumstances, I am satisfied that the impugned notices have been issued in violation of principles of natural justice and the provisions of the Kerala Land Conservancy Act and Rules.

Therefore, the impugned notices are liable to be quashed, but if the impugned notices are treated as show cause notices, it may not be necessary to quash the same.

3. In the above circumstances, the writ petitions are disposed of with the following directions:-

The jurisdictional Tahsildar shall treat the notices as show cause notices. The petitioners shall file objections to the same within three weeks from today. The Tahsildar shall afford an opportunity of being heard to the petitioners which shall include opportunity to adduce evidence also. Thereafter, speaking orders shall be passed meeting the contentions of the petitioners on the basis of the evidence to be adduced by them. Till after two weeks from the date of communication of the orders on the petitioners, the petitioners shall not be evicted from the properties in question.

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED: -08-2007

The writ petition is disposed of as above.

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED:01-06-2007